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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/802,322 | 03/16/2004 | Billy H. Brenton | BRER.01US01 | 3739 |

27479 7590 02/09/2007
COCHRAN FREUND & YOUNG LLC
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FORT COLLINS, CO 80525

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| EXAMINER |
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NGUYEN, PHONG H

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| ART UNIT | PAPER NUMBER |
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3724

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|----------------------------------------|------------|---------------|
| 3 MONTHS | 02/09/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/802,322

Applicant(s)

BRENTON, BILLY H.

Examiner

Phong H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-14,16 and 17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>20070108</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. In view of the interview on 12/06/2006, the prosecution is reopened.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 8, 10, 11, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen (590,330) in view of Borah (2,421,238).

Nolen teaches a scissors comprising a first shaft, a second shaft, a pin (a3), an adjustable thumb ringlet (a2) and a second pin (r). See Figs. 1-3 and 6.

Nolen does not teach the pin (a3) being flexible.

Borah teaches the use of a flexible pin 24 to connect separate parts together. See Fig. 3. Therefore, it would have been obvious to one skilled to replace Nolen's pin with Borah's flexible pin for easily securing the thumb ringlet to the handle portion.

Regarding claims 2 and 12, the modified scissors of Nolen teaches the invention substantially as claimed except for the material of the pin (a3).

To select a well known material such as thermoplastic polymers for Borah's pin would have been obvious to one having ordinary skill in the art, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of

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its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

4. Claims 1, 3-5, 8, 10, 11, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen in view of Borah as applied to claim 1 above, and further in view of Earnest et al. (3,374,541), hereinafter Earnest.

Regarding claims 1, 5, 8, 10, 11, 13 and 16, Nolen teaches a scissors comprising a first shaft, a second shaft, a pin (a3), an adjustable thumb ringlet (a2) and a second pin (r). See Figs. 1-3 and 6.

Nolen does not teach the pin (a3) being flexible.

Borah teaches the use of a flexible pin 24 to connect separate parts together. See Fig. 3. Therefore, it would have been obvious to one skilled to replace Nolen's pin with Borah's flexible pin for easily securing the thumb ringlet to the handle portion.

Regarding claims 3 and 4, Nolen teaches the invention substantially as claimed except for the thumb ringlet in Fig. 1 having an opening facing upward.

Earnest teaches providing an opening 13 facing upward in a thumb ringlet to comfortably fit fingers of varying girth. See Figs. 1-3. Therefore, it would have been obvious to one skilled in the art to provide the thumb ringlet of Nolen an opening facing upward as taught by Earnest to comfortably fit fingers of varying girth.

5. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen in view of Borah as applied to claim 1 above, and further in view of Mock (6,131,291).

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The modified scissors of Nolen teaches the invention substantially as claimed except for a means for adjusting the force between opposing cutting portions (A, B) of the scissors.

Mock shows a pair of shears comprising means (20,50) for adjusting the force of the shear blades (see column 3, line 66 to column 4, line 1).

Therefore, it would have been obvious to one skilled in the art to further modify Nolen's scissors by providing the scissors with a force adjusting means to facilitate adjusting the ride of the blades as taught by Mock.

6. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolen in view of Borah as applied to claim 1 above, and further in view of in view of Brenton (5,469,624).

The modified scissors of Nolen teaches the invention substantially as claimed except for a finger stabilizer.

Brenton shows a pair of scissors comprising a finger stabilizer disposed in the vicinity of a finger ringlet (26, see Fig. 1a).

Therefore, it would have been obvious to one skilled in the art to modify Nolen's scissors by providing the finger ringlet (B3) with a finger stabilizer for supporting a user's finger when in use as taught by Brenton.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PN:



January 8, 2007



Timothy V. Eley
Primary Examiner